

Hearing Date: October 24, 2012 at 10:00 a.m. (ET)
Objection Deadline Date: October 17, 2012, 2012 at 4:00 p.m. (ET)

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Counsel for Kenneth Kral, Lisa A. Stricker and all
others similarly situated

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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In re:	: Chapter 11
	:
Residential Capital, LLC, et al.,	: Case No. 12-12020 (MG)
	:
Debtors.	: Jointly Administered
-----	X

NOTICE OF MOTION FOR RELIEF FROM STAY

KENNETH KRAL, LISA A. STRICKER AND ALL OTHERS SIMILARLY SITUATED, hereby move for relief from the automatic stay as to debtors GMAC Mortgage, LLC and EXECUTIVE TRUSTEE SERVICES, LLC pursuant to 11 U.S.C. § 362 in order to proceed to trial and liquidate their claims and the claims of the putative classes in the case captioned *Kenneth L Kral v. GMAC Mortgage LLC et al*, Civ. No. 2:2012cv01023 GW (OPx), currently pending in the United States District Court for the Central District of California. Such motion shall be heard on October 24, 2012 at 10:00 a.m. This motion is based on the affidavit of Joseph Arthur Roberts filed herewith, memorandum of points and authorities and exhibits thereto, the records on file in this action, and such other evidence and oral argument as will be permitted by the Court. The proposed order is attached hereto.

Please note that the relief requested may be granted without a hearing if no Objection is timely filed and served in accordance with the Case Management Procedures (Document #141).

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This Motion includes, and is based on, the following:

Affirmation of Joseph Arthur Roberts (attached hereto);

Points and Authorities in Support of Motion for Relief from Stay (filed concurrently herewith);

Exhibit A: *Kenneth L. Kral v. GMAC Mortgage LLC et al*, Civ. No. CV12-01023 GW (OPx) First Amended Complaint.

Exhibit B: April 13, 2011 Consent Order issued by the United States Department of Treasury's Office of the Comptroller of Currency;

Exhibit C: Copy of the *Kenneth L. Kral v. GMAC Mortgage LLC et al*, docket (District Court; Central District of California);

Exhibit D: Copy of the *Hestrin v. American Home Servicing Inc., et al* docket (District Court; Central District of California);

Dated: 9-21-2012

LAW OFFICES OF J. ARTHUR ROBERTS

By: 

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Counsel for unsecured creditors Kenneth Kral, and
all others similarly situated

-----	X
In re:	: Chapter 11
	:
Residential Capital, LLC, et al.,	: Case No. 12-12020 (MG)
	: Jointly Administered
Debtors.	:
	: AFFIRMATION IN SUPPORT OF
	: MOTION FOR RELIEF FROM STAY
-----	X

JOSEPH ARTHUR ROBERTS, ESQ., an attorney at law duly admitted to practice before the Courts of the State of California, and admitted *pro hac vice* in the above-captioned court, under penalty of perjury, duly affirms as follows:

1. I am the attorney for Movants Kenneth Kral, and all others similarly situated ("the Class"), unsecured creditors herein.
2. Jurisdiction is conferred on this Court by the provisions of 28 U.S.C. §1334. This is a core proceeding within the meaning of 28 U.S.C. §157(b).
3. Movants have pending litigation in District Court, Central District of California, titled *Kenneth L Kral v. GMAC Mortgage LLC et al*, Civ. No. 2:2012cv01023 GW (OPx) (the "Kral litigation"), the complaint for which was filed on February 7, 2012. A First Amended Complaint ("FAC") was filed on April 25, 2012, alleging Unlawful/Unfair Acts pursuant to California Business and Professions Code section 17200, et. seq. and 15 USC 1641g (Truth in Lending Act or "TILA") violations against Debtor. The case has been resolved as to Lisa Stricker but her dismissal remains unfiled. A copy of that complaint is attached hereto as Exhibit A.
4. The FAC claim for Unfair Competition relates to Debtor's systematic, institutionalized and, Movants believe, ongoing business practice of soliciting, coercing and influencing improper notarial acts with regard to the manufacturing of Assignments of Deeds of Trust, Substitutions of

Trustee, Deeds Upon Trustee Sale and other mortgage related documents. This claim arises, in part, from findings set forth in a Consent Order issued the United States Department of Treasury's Office of the Comptroller of Currency (the "OCC") on April 13, 2011, in which the OCC found that Debtor "filed or caused to be filed in state and federal courts, or in local land records offices, numerous affidavits or other mortgage-related documents that were not properly notarized, including those not signed or affirmed in the presence of a notary." A true and correct copy of the relevant Consent Order is attached hereto as Exhibit B.

5. Movants' TILA claims are based on Debtor's failure to Notice borrowers of transfers of their mortgages as required by 15 USC §1641g. These claims are detailed in the Points and Authorities in Support of this Motion for Relief from Stay, filed concurrently herewith.

6. The Kral litigation was stayed upon Debtor's filing of bankruptcy (filed May 14, 2012), after Movants' filed their FAC, in response to Debtor's Motion to Dismiss their claims. A true and correct copy of the Kral litigation docket is attached hereto as Exhibit C.

7. The Kral litigation is before Hon. Judge George Wu. Judge Wu was also the presiding judge for *Hestrin v. American Home Servicing Inc., et al*, case no. 2:12-cv-01025-GW-RZ, in which I am counsel for plaintiff Mark Hestrin. The Hestrin case involved an identical Unfair Competition claim for improper and illegal notarial practices as the Kral litigation. The Hestrin case was recently dismissed for, inter alia, standing¹. Prior to dismissal, however, the case progressed significantly, has included several Motions to Dismiss and preliminary discovery matters. A true and correct copy of the Hestrin docket is attached hereto as Exhibit D. Consequently, Judge Wu has determined the sufficiency of Plaintiffs Kral and Hestrin's allegations on multiple occasions,

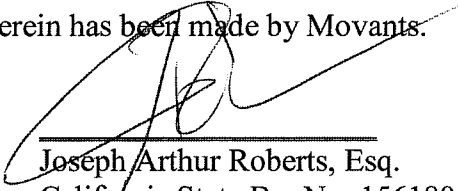
¹ The District Court found that Plaintiff Hestrin did not have standing because his house had not been foreclosed on; this is not the case with the Kral litigation, as Plaintiff Stricker's house has indeed been foreclosed.

and is therefore thoroughly knowledgeable about the legal theories and principals behind the Unfair Competition claims.

8. This application is brought pursuant to Rules 4001(a) and 9014 of the Federal Bankruptcy Rules of Procedure and §362(d)(1) of the United States Bankruptcy Code for an Order, terminating, annulling or modifying the stay imposed under §362(a) of the Code.

9. No prior application for the relief requested herein has been made by Movants.

Date: 9-21-2012



Joseph Arthur Roberts, Esq.
California State Bar No. 156180 (admitted
pro hac vice)